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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,688	09/23/2000	Christopher Charles McCormick	Indigo I	4264
22897	7590	10/06/2003	EXAMINER	
DEMONT & BREYER, LLC			SNAY, JEFFREY R	
SUITE 250			ART UNIT	
100 COMMONS WAY			1743	
HOLMDEL, NJ 07733			PAPER NUMBER	

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/668,688

Applicant(s)

MCCORMICK ET AL.

Examiner

Jeffrey R. Snay

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1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Election/Restrictions

1. Applicant's election of claims 1-8 and 14-17 in Paper No. 4 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6, 7 and 14-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by NIST WebBook (<http://webbook.nist.gov>).

The NIST WebBook identifies a chemical property database, compiled by a supplier independent testing facility (NIST), which properties are obtained in accordance to a supplier independent standard (i.e. determined by NIST). The NIST database is searchable, which inherently discloses the presently recited steps of receiving a requirement into the data processing system in the form of a search request, and outputting an indicium of an identified batch in the form of a search result. The uniform standard established by the NIST Webbook system comprises name, chemical formula, CAS registry number, molecular weight, selected ion energetics and spectral properties.

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admission of the prior art.

Applicant admits as known, at pages 2-3 of the specification, a method comprising evaluation by a supplier of a chemical batch in accordance with a standard and specification for that chemical. Such supplier, upon receipt of a requirement or request from a prospective purchaser then compares the requirement to the previously attained analysis to accommodate the request. See e.g. Figure 1A. Thus the conventional method as admitted by applicant differs from claim 1 only in that the step of comparing the purchaser request to inventory analysis is to be performed by a data processing system. It is well recognized that the provision of generic automated means for the purpose of performing a known step otherwise performed by hand is considered obvious to one of ordinary skill in the art. The provision in the admitted method of a computer processing system for the purpose of automating the step of comparing a purchaser request to available inventory would have been obvious and within the purview of the skilled artisan.

Regarding instant claim 3, it is noted that the recited limitation does not preclude the testing facility from being that of the supplier, which is the case of the admitted method. Regarding instant claims 4 and 5, it would have been obvious to one of skill in the art to compile past purchaser statistics in order to direct future marketing and manufacturing practices, as was conventional in retail business operations.

Regarding instant claims 6 and 7, it is noted that the recited limitations of updating inventory information would have been inherent in the admitted method when applied to any chemical manufacturer that offers more than one chemical for market.

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Regarding instant claim 8, it is noted that the recited limitation would have been met merely by the imposition of a sale on the part of the manufacturer.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Available Chemicals Directory discloses a central processing system for matching prospective chemical purchasers with available chemicals and suppliers. MDL's Reagent Selector, www.mdli.com, similarly discloses the use of a supplier independent processing system to enable prospective chemical purchasers to identify available chemicals by submitting search requests of reagent chemical and physical properties. Purcell discloses a similar central processing method for providing sellers and prospective purchasers a central inventory collection which can be updated by suppliers and queried by purchasers.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Snay whose telephone number is (703) 308-4032. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (703) 308-4037. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeffrey R. Snay
Primary Examiner
Art Unit 1743

jrs